

8-041 1995 REPORT ON IMPACT OF CRIMINAL
JUSTICE ACT ON TRAVELLERS &
CHILDREN

A REPORT FOR THE CHILDREN'S SOCIETY ON ~



THE IMPACT OF THE CRIMINAL JUSTICE
AND PUBLIC ORDER ACT ON THE LIVES
OF TRAVELLERS AND THEIR CHILDREN

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INTRODUCTION AND SUMMARY

The Children's Society has been concerned that the Criminal Justice and Public Order Act 1994 may have adverse and long-term effects on the children of travellers.

A previous report by The Children's Society "Out of Site, Out of Mind" 1994 outlined the Act's potential to affect children's statutory rights of access to consistent education and health care. At the same time, their parents' ability to provide them with a secure and stable environment might be decreased as a consequence of greater legislative power to evict and by the manner in which evictions could be enforced.

This report's research findings has produced evidence that The Children's Society's initial concerns were justified. The Act and its current implementation may be seen as detrimental to the welfare and well-being of these children.

Aims

It was proposed that information should be collected about the experiences of traveller families in the South West of England in order to ascertain to what extent the legislation was affecting their way of life. As such the research was built around the central question: "Do children in traveller families suffer in their access to education, health care facilities, and to stable and secure sites, as a result of the implementation of the Criminal Justice and Public Order Act by local authorities and the police?" In addition, information would also be obtained from local authorities and police forces in order to answer the question: "Do authorities implement a co-ordinated or fragmented policy toward travellers?"

Findings and conclusions

It was established that traveller children in families who experienced evictions were unable to access stable and secure sites, or consistently access essential services. Furthermore, access to services significantly decreased as evictions increased.

Children in families who have not been evicted have much higher levels of access to essential services. However, because of the lack of statutory provision, not all these children have access to secure and stable sites. Additionally, children in families who are trying to establish legal sites are at risk of losing them because the majority of planning applications are being refused.

Some local authorities are implementing a co-ordinated policy toward travellers, however this is not always being matched by the approach adopted by police forces. Local authorities who do adopt a multi agency approach to eviction are achieving the best

outcome, in that the families' circumstances are being taken into account and the eviction costs are minimal because travellers are moving before an eviction has to be enforced thereby sparing local authority resources.

On the other hand it was found that police evictions produce the worst outcome, in that the level of resources needed are high and as such have to be used efficiently. This leads to travellers being quickly evicted regardless of their circumstances. Furthermore, the rapid, frequent evictions which are associated with police evictions are trapping travellers in one county. This is because the travellers are not given sufficient time in which to organise their finances in order to travel out of the county.

Finally, the research discovered that the majority of travellers were homeless prior to travelling. When this finding is coupled with evidence of local authorities not being able to fulfil their obligations under part III of the 1985 Housing Act, it can clearly be seen that evictions will not eradicate the problem of unlawful trespass, since one outcome of eviction is that it forces some families to present themselves as homeless. Unlawful trespass will only be reduced if there is statutory site provision and if the planning authorities are more supportive of what the travellers are trying to achieve.

Recommendations

- The main recommendations of the report are that local authorities should implement policies for site provision.
- Home Office guidance should become statutory.
- As a matter of course police forces should allow travellers a set period of time on each site.
- Planning authorities should show commitment to private site provision by identifying suitable and available land, and by working more collaboratively with travellers who wish to establish legal sites.

RESEARCH METHODOLOGY

The report has been produced as the result of collecting information from 80 traveller families in the South West of England. The sample population totalled 296 people of which 139 were children. The sample included 11 lone parents. 100 interviews were conducted using a structured questionnaire. 80 questionnaires were completed with different families and 20 with families who experienced repeated evictions. The sample population was divided into 3 groups in order to compare the different groups' abilities to access essential services. The groups were: traveller families who have not been evicted since November 1994; traveller families who have been evicted since November 1994, and traveller families who have experienced rapid

to local authorities reminds the local authority of its obligations under other legislation. It suggests that it should take this into consideration before enforcing an eviction order. Specifically, the guidance underlines local authorities' responsibilities under part III of The Children Act 1989 (Local Authority Support for Children and Families), and part III of The Housing Act 1985 (Housing the Homeless). In addition, local authorities must consider the effects of an eviction on a child's education and also the effect on pregnant women and newly born babies.

It is clear from the code of guidance that the Secretary of State expects local authorities to liaise with all agencies who have responsibilities under other legislation and, as such, adopt a multi-agency approach to implementation.

The legal implications for travellers

The legislation has the following implications for travellers: Travellers who do not follow a directive to leave land commit a criminal offence. This may result in arrest and having vehicles impounded or destroyed. Travellers who follow a directive to leave but who return to the land within 3 months also commit a criminal offence. Travellers also commit a criminal offence if they cause damage to the land - damage may include flattening grass with vehicles. Landowners, including local authorities, can take such steps as deemed necessary to block or trench entrances to land. Travellers who succeed in pulling on to land which has been blocked and who, in the attempt, damage any part of a barricade, commit a criminal offence. Finally, a directive to leave land, when issued by the police, is not subject to any standardised time scale. This means that a directive can become effective immediately.

GROUP A: TRAVELLER FAMILIES WHO HAVE NOT BEEN EVICTED SINCE NOVEMBER '94

The group of traveller families who have not experienced evictions since November accounted for 47% of the sample population. Analysis of the data uncovered four reasons why these families have not been evicted and who, as a consequence, have gained some measure of stability at certain sites. The first and main reason was that the majority of this group - 28% of the total sample - were living on sites where an application for planning permission had or was about to be submitted. There were four sites in total, three within Somerset and one in Gloucestershire. All four were at different stages of the planning process and all four planning applications had different histories. The second reason was that the decision to evict a site had been subject to judicial review. Two sites fell into this category, one in Cornwall and one in Avon. Thirdly, it was discovered that a site in Devon had been served with an eviction order over a year ago but that it had not been enforced. Finally, the research revealed that a small number of traveller families

had gained a degree of stability because they had pulled on to disused council land.

Sites with planning applications pending

The first site in Somerset - site A - was at the appeal stage of the planning process. Their planning application having been refused, the travellers have appealed to the Secretary of State to try to reverse the decision. The appeal was due to be heard on June 21st 1995. The site was situated on private land which, at one stage, had been granted planning permission as a site for mobile homes. Consequently, the site has hard standing and some facilities. The landowner granted the travellers permission to stay as long as they gained the necessary planning permission. The travellers have occupied the site for 2 years. There are many advantages to living on a stable site for these travellers and their children.

Gaining access to a stable site has enabled the travellers to change their status from NFA (no fixed abode) to that of resident which automatically provides them with an address. This has resulted in the travellers being able to gain access to the job market and also access to training courses and higher education. The majority of the children were integrated into mainstream education or attending playschools. All the children have access to health services. In short, the children had stable and secure homes and full lives because the families were integrated into the local community where they were able to fully participate in community life.

The travellers on the second site in Somerset - site B - had just submitted a second planning application having had the first one refused; they were at a different stage of the planning process. There were also three main differences between site A and B's planning applications. First, site B travellers were applying for planning permission to establish a temporary site, whereas the site A travellers had applied for a permanent site. Secondly, the inhabitants of site B had changed over time. The travellers who submitted the first planning application had moved on and a new group have initiated the second application. The original travellers on site A have remained. Finally, this site was situated on local authority land. Apart from these minor differences, the consequences for these travellers are similar to the previous group. Both sites had a strong sense of community and a good network of support.

The group of travellers at the site in Gloucestershire had purchased their own land. The travellers were under the impression that the land already had planning permission and the price they paid certainly reflected this. However, it became apparent that the site did not have planning permission but, having invested their money, the travellers had little choice but to submit their own application.

The travellers' relationship with the local community was at

first difficult. However as the travellers started to integrate into the community (through sending their children to the local school and playgroup and generally getting to know the locals) the local people rallied around in support of what the travellers were trying to achieve. When the travellers' planning application was refused and they appealed against the decision, the villagers organised meetings with officials and press and started lobbying the local authority. The travellers lost their appeal and have to vacate the land by July 1995.

The last site, situated in Somerset, was completely different from the other three. In their attempt to initiate a site provision policy, Somerset County Council were submitting a planning application for this site to the District Council. Because of the strength of local protest against the planning application, the site and the travellers have acquired considerable notoriety. The council were submitting an application for this site to be made into a temporary transit site. The travellers felt that the site needed to be permanent in order to maintain a degree of stability. The locals felt that there should not be a site since the travellers did not want the type of site the council was prepared to offer. These travellers had not at any stage been consulted or asked what type of site they would like to see established.

The majority of the travellers have lived on this site for 18 months. However, unlike the previous sites, the children did not attend the local school and the families were not involved with the local community because of the animosity displayed to them by the villagers. Instead, the children attended schools in neighbouring villages and the travellers pursued interests and jobs outside of the immediate area. There was a feeling of fragility about the site. It appeared that stability decreased as travellers became divorced from the planning process and were not able to participate in something that affected their future.

On all four of these sites occupation of the land preceded a planning application. Submitting a planning application was a difficult, intricate and costly process. The data identified that 73% of the total sample population had not applied for planning permission. This was because of a lack of available land, lack of information and lack of finance.

Judicial review

The second reason why travellers had not been evicted was that the decision to evict had been put to judicial review. This could be a fairly lengthy business. The two sites, one in Avon and one in Cornwall, which had been subject to judicial review, were both long established sites, of 2-3 years duration. The travellers on both sites had experienced mixed reactions from the local people. A problem had arisen for one of the sites over accessing basic facilities such as water. The nearest supply was four miles away, originally it was just down the road at the local church but the supply was disconnected. The children on both sites had access

to education and health care. However, for the children on the Cornish site, this was because of the diligence of a member of TEG (traveller education group) and the local health visitor. These travellers were committed to attempting to win their reviews but were aware that because of local opposition the review would probably not go in their favour.

Eviction not enforced

Thirdly, the research uncovered what can only be described as an enigma at a site in Devon. The travellers had occupied the site for 2-3 years. A little over a year ago they were served with an eviction order but it had never been enforced. The data revealed that out of the seven families on the site, all had applied for local authority housing when they had been served with the notice. Local authorities have a responsibility under part III of the Housing Act to offer some form of accommodation when the family is homeless because they have moveable accommodation but no site to put it on. Had the eviction order been enforced, the local authority would have had to accommodate all seven families.

The site itself caused problems for the travellers. Access was by way of a steep, rutted, half-mile track which would be inaccessible to emergency vehicles. There were no facilities on the site. In spite of these difficulties the travellers were participating members of their community. Children attend the local school and playschool and all had access to health care. However, the feeling amongst the travellers was that the local authority had "...left (them) to rot".

Disused county council land

Finally, the research revealed that a small number of travellers had escaped eviction because they had ended up on disused county council land. There were two examples, one site was in Cornwall and one in Somerset. The sites and the two groups had similar characteristics. Both sites were on a main road and neither had any facilities. Families on both sites had requested help in accessing basic information with regard to health and education. Only one child attended school. These travellers appeared to be cut off from the wider travelling population and the local community. It would appear that the first stage of local integration came from children attending local schools which often led to the family joining in local activities. Because of isolation, these two groups felt vulnerable and exposed to the risk of eviction, therefore stability is minimal.

Summary

The majority of traveller families in this group have not been evicted because they were trying to establish legal sites. The most stable and secure sites were those where the travellers were themselves involved in the planning process. This, and the amount

of time that planning applications take, has enabled traveller children to gain access to consistent schooling and health care. It has also led to families becoming fully integrated into the local community. The data reinforced this argument. 77% of traveller children in this group had a school place, 42% were on sites where a planning application was being sought.

Some degree of site stability allowed traveller families the opportunity to apply for local authority housing. 27% of families who had not been evicted had applied for local authority housing. However, 25% were still on waiting lists.

The less secure and stable sites were those where the traveller families were isolated. Isolation seemed to occur where families were not involved with their local communities because they felt that their location was temporary, in that they were not sure for how much longer the site will be tolerated.

EVICTIONS

The first flurry of evictions in the South West commenced in December 1994, approximately six weeks after the Criminal Justice and Public Order Act had come in to force. The evictions took place on large sites which had been tolerated for some time. The first site to be evicted was at Cullompton in Devon. The site consisted of 60 live-in vehicles which accounted for nearly 100 adults plus children. The eviction caused the travellers to disperse and move on in smaller groups. Some groups managed to access land that had the potential to keep them hidden and therefore safe, other groups were more visible and, as a consequence, experienced further evictions.

The groups experiencing further evictions tried to decrease the possibility of being evicted again by locating other tolerated sites. However, as evictions increased, the few tolerated sites began to swell in number and, consequently, were eventually evicted. The travellers were dispersed once again, this time into even smaller groups. After experiencing a series of rapid evictions, even though the number of vehicles in the groups were often below six, they congregated on a piece of land in a large group again. There were two reasons for this. First, the travellers were running out of land that had not been blocked or trenched, and secondly, large sites offered the travellers the chance to gain time between evictions and acquire some measure of security.

GROUP B: TRAVELLER FAMILIES WHO HAVE BEEN EVICTED

This group and group C represented 53% of the sample population. Group B is comprised of families who have experienced one or more evictions but who have had at least three weeks inbetween evictions. In comparing this group with the travellers in group A, the first thing to note is that this group, and the following one, all have the status NFA (no fixed abode) which has implications for the travellers. Secondly, evictions have

significant implications for families trying to access health care and education.

NFA and benefits

The status of NFA has the following implications for traveller families. First, it has implications for claiming child benefit. Although child benefit is a universal benefit 5% of the sample population - all of them in groups B and C - were either not in receipt of benefit or were having problems claiming it. The reason for families not being in receipt of benefit was that they were classified as NFA and did not have access to a bank account. Conversely, The Child Benefit Agency seemed unprepared to pay benefit into the bank account of travellers who did have access to one. However, the most common difficulty for travellers was trying to obtain a change of post office. Because of evictions the travellers were moving around far more than is usual amongst the settled community. Unfortunately the rules for changing post offices do not allow for this, only two changes being allowed. Therefore, many of those in receipt of benefit had to travel long distances in order to cash benefit at the last change of post office. One family in Devon had to make a round trip of 50 miles in order to collect benefit.

Secondly, there are implications for other benefits. The status of NFA is reflected in the amount of income support that travellers receive. Because of the label they may miss out on additional premiums, for instance they can be denied payments for dependent children, lone parent premiums and family premiums. Also some travellers have found it impossible to access crisis and budget loans. The DSS in one county has not allowed travellers to fill in an application for these, the travellers having been told that they are not entitled to them.

Health care and education

Like members of the settled community, travellers have the choice of educating their children at home and also the option of choosing an alternative approach to the treatment of illness. Whilst it is hoped that society celebrates the diversity of approaches it is also hoped that it acknowledges that those parents wishing to integrate their children into mainstream education and also to access statutory health care should not be denied the right to do so.

Compared with group A only 35% of the children in this group, whose families want them to, have a school place. Eviction causes one of two outcomes for school age traveller children. It either causes them to leave a school or it prevents them from being allocated a place because they are not in the area for a long enough time. Playschools were also difficult to access. Waiting lists were often long and the families had moved before the children were offered a place.

Health care is slightly different. Although the majority of these children were not registered with a doctor in the area, emergency health care was usually available as a temporary resident. However, access to consistent health care was a problem. Children in this group were missing out on routine checks administered at set ages and also immunisations. Health Visitors were not attending these sites because the children were not registered with a practice. Access to dental care was also a problem. This is not surprising since eligibility for NHS treatment requires a person to be available for treatment on a regular basis.

In addition the research revealed a gap or delay in health care that had not been considered by The Children's Society. Travellers or their children who suffered from either a life threatening or chronic illness were having difficulty in accessing hospital treatment. There were two reasons for this. First, hospitals were unable to successfully communicate with travellers because they lacked an address, therefore it was difficult to obtain an appointment. Secondly, travellers who were about to receive or who were already receiving treatment found it difficult to attend appointments after being evicted from the area. This left travellers with the option of either travelling miles to attend an appointment or foregoing treatment.

GROUP C: TRAVELLER FAMILIES WHO HAVE EXPERIENCED RAPID MULTI EVICTIONS

31% of all travellers who had been evicted have experienced rapid multi evictions. This group of travellers were being issued with a directive to leave within 24 hours of pulling onto a piece of land. On the majority of occasions the order became effective within a few hours. Rapid multi evictions produced one of two outcomes, one outcome was at odds with what the Criminal Justice and Public Order Act had been designed to do and the other outcome was exactly what the legislation had been formulated to achieve.

Rapid multi evictions can prevent travellers from leaving a county. This outcome was not what the evicting authorities had intended. The underlying reason for this happening was that travellers lacked the level of finance needed in order to travel longer distances. Vehicles need fuel and travellers need to make repairs to vehicles, both need to be financed. Where time is in short supply signing on days are missed, giros are unable to be collected and work is disrupted. This results in a shortage of finance and as a consequence the traveller is only able to move a few miles.

The other outcome of rapid multi evictions is that it forces some families into trying to rejoin the settled population. This can also be true of evictions in general. However, the families in this group are trying to access housing whilst in a crisis situation, they are not placing their names on a waiting list for local authority housing. On the contrary, the data revealed that families who experience evictions do not have the opportunity -

if they so desire - to apply for local authority housing in an organised manner. In a crisis situation these families must present themselves as homeless. Alarmingly, it was discovered that of the families that presented as homeless, 55% were not offered any type of accommodation. The local authorities had turned them away prior to assessing their eligibility, in contravention of Part III of the 1985 Housing Act.

Compared with the preceding group, the children of travellers in this group have much bigger problems in accessing essential services. Only 15% of the children in this group have a school place. These children experience long lapses or complete gaps in education and health care. However, surprisingly the reverse is true when it comes to traveller women's access to ante natal care. Pregnant women represented 8% of the sample population, only one of these women was not receiving ante natal care. Since all the pregnant women were in this or the preceding group the data seemed at odds with the rest of the findings. It transpired that the reason the majority of women could access ante natal care could be solely attributed to the resolve of the women and the determination and commitment of the midwives in ensuring that these women received the care to which they were entitled. Against all odds midwives maintained contact with women who were moving from site to site.

The research highlighted another area in which the children in this group were being denied access. Because evictions caused traveller families not to be able to access stable and secure sites the children of estranged parents were unable to spend time with the absent parent. Furthermore there were additional problems if the parent who had custody of the child lived in a house and the absent parent lived on a site. The data identified a group of part-time fathers who were experiencing rapid multi evictions. Prior to being evicted the men were able to maintain contact with their children although some of them were experiencing problems to do with access. Some of the men's ex partners were now living in houses and, as a consequence, the legal representatives of the ex-partners were arguing in custody or access proceedings that the children should not be subjected to the father's lifestyle. When the fathers started to experience evictions the child access problem escalated which resulted in the fathers being unable to maintain any kind of contact with their children.

Traveller families in groups with less than 6 vehicles

At the beginning of this section it was stated that even travellers in groups with less than 6 vehicles were experiencing rapid multi evictions. It appears that these travellers are an easy target for the police. The police can stop and check that vehicles are roadworthy and legal as well as evict using section 61 citing that there has been damage to land. These types of checks and evictions are easy to carry out, they need little manpower and no extra resources, whereas the eviction of a large site takes longer to organise and requires additional resources.

Comparison of the implications of eviction for children prior to November and since November

The research has found that children in traveller families who have been evicted since November 1994 have experienced greater disruption to essential services than those children in families who experienced evictions prior to November 1994. 33% of children suffered disruption prior to November, whereas 54% have suffered disruption since November. This is because evictions since November have been more frequent with shorter time in between.

Summary

Evictions mean that children are not gaining access to stable and secure sites. As a consequence children's access to essential services decreases significantly. It is also difficult for these children to maintain contact with an absent parent. The more frequent and rapid the evictions the greater the chance of a service becoming inaccessible. The families in these two groups lack the opportunity to apply for local authority housing and the majority of those applying for housing in a crisis situation are being turned away. Evictions are causing travellers to be labelled as NFA which reduces the amount of benefit they receive. This is not an accurate description as these travellers do have homes but not access to a stable site. Finally, evictions are not causing the long term dispersal of travellers. Because of the pattern that evictions take, travellers are eventually regrouping in large numbers in order to gain time and more security. Furthermore rapid multi evictions can contain travellers within a particular county. This may be contrary to what the implementing authorities wish to achieve.

THE EVICTING AUTHORITIES

The evicting authorities are defined as the county council, the district council, the parish council or the police. Additionally, travellers can be issued with a notice to leave by a private or commercial landowner which may or may not require the assistance of the police. This section will concentrate on the differences between a police eviction and a local authority eviction and it will highlight the implications of these evictions for the authorities concerned and for the traveller families.

The data has consistently indicated that more evictions have been carried out by local authorities than by the police. This is hardly surprising when we look at who owned the land on which evictions occurred. 53% of evictions took place on local authority land, 30% on private or commercial land and 13% on land where ownership was in dispute or was unknown. Since 53% of evictions occurred on local authority land it would seem quite logical that local authorities carried out the most evictions. However this is not strictly true. What the research failed to